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Brussels, 20 May 2020

ETF COMMENTS ON GUIDELINES AND RECOMMENDATIONS OF THE EUROPEAN COMMISSION

On 13 May the European Commission adopted guidelines and recommendations to *"help Member States lifting the travel restrictions"*.

Compared to the most recent documents published by the European Commission, this time, more emphasis is given to the need of protecting transport workers' health and safety, which is identified as a key principle. Furthermore, compared to the past, the role of social partners in defining a way out of the crisis is better acknowledged.

Too often, however, the Commission opted to make references to 'stakeholders', for instance, in art. 42 *"Stakeholder organisations, operators and service providers active in the different transport modes should develop and implement adequate measures that address the specific circumstances of each mode"*. We would have preferred a stronger recognition for the role that social partners can and should play in ensuring a safe restart, compared to other stakeholder organisations. Also, as a general principle, workers and their representatives must always be fully involved in all decisions that concern staff protection. This element is missing from the guidelines, as outlined below.

Will these guidelines have a real added value for transport workers in the EU? Do the proposals reflect the implementation of the key principle 'protecting transport workers' health and safety'?

The ETF has mixed feelings. Why?

THE CHOSEN TOOL

Guidelines as such proved to be a tool resulting in minimal success. Regrettably, the resistance of several EU member states to a truly EU approach to exit strategies will be detrimental for transport workers' working conditions. Several EU countries have adopted their strategies, sometimes in cooperation with social partners. The added value of an EU-level tool would have been to bring countries towards strong and clear commitments. For international transport, for instance, it is not enough to say that Member States and operators need to coordinate. Instead, bilateral or multi-country agreements should be



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promoted to guarantee an identical level of protection for transport workers defined through standards to be applied in all countries. If we take the examples of what the Commission states in the footnote on p. 7 – on face masks: *“It will be for national health/safety authorities to specify further in their discussion with stakeholders per transport mode.”* What if country A says masks in a given sector are obligatory, and country B says no masks in the same sector?

Since the beginning of the crisis, we have asked that a task force made of the EU-level transport social partners is put in place at EU level to advise on health and safety measures during the crisis and in the definition of an exit strategy focused on the safety of workers and passengers. Most transport modes are covered by a sectoral social dialogue committee at EU level, composed of representative social partners organisations, that have the relevant expertise in the sector they represent. Their closer involvement would have allowed a better understanding of the priorities to be tackled for a safe restart.

THE FOCUS

The Commission’s main focus remains on having the internal market run smoothly, rather than protecting transport workers. Transport knows no borders and transport workers make the internal market a reality, so their protection should be the priority. Transport workers have been undervalued for too long by EU and national policies and legislation. This crisis has shown how important they are. It is time to reverse this trend, starting by putting them at the centre of any reopening process.

LACK OF AMBITION and VAGUENESS

Safety measures are promoted, but, according to the Commission’s proposal, they need to be cost-effective. Even for a soft instrument such as guidelines, this is a vague yet dangerous concept. How is cost-effectiveness assessed in the case of safety measures? How much is transport workers’ health and safety valued? Many transport workers fell ill at work and lost their lives due to COVID-19. It is unacceptable to talk about cost-effectiveness when it comes to workers’ protection. Instead, safety measures must be decided based on legislation in force and with the full involvement of the workers and their representatives!

Protection must be compulsory not only for those who have a high level of interaction: protecting workers’ health and safety is the employers’ duty, according to EU legislation¹. This includes providing PPEs to workers. This is also specified in the **EU-OSHA guidelines**, which are mentioned in the Commission’s proposal.

It would have been better to restate some of the principles expressed in the **EU-OSHA guidelines**, i.e. participation and information of workers and their representatives all along the process. This is particularly important in a sector like transport, which suffers from the poor application of information and consultation rights.

¹ Directive 89/391/EEC - OSH "Framework Directive", Directive 89/656/EEC - use of personal protective equipment, Directive 2000/54/EC - biological agents at work



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Regrettably, we see no reference to safety representatives at company level. They are an invaluable resource for companies and workers alike, and they are key to put in place adequate measures for preventing risks.

Implementation of measures: in several points, there are only vague references to whom is in charge of implementing recommendations (i.e. disinfection of hubs and vehicles)

Some of the principles expressed are too vague and risk creating confusion and abuses. Some examples:

- art. 28 *“For all collective forms of passenger transport, reasonable measures to limit contact between transport workers and passengers, as well as between passengers, should be taken.”* –who defines “reasonable”?
- art. 36 *“Transport operators and service providers should have in place specific protocols in case passengers fall sick or show COVID-19 symptoms during or immediately after travelling or being at a transport hub.”* – why not one coordinated protocol? This would have been a real added value!

Control and enforcement are the weakest links in transport. Our members are reporting an even lower level of controls during the crisis, yet rules have been disregarded by many companies in the sector. It would have been essential to include, at least, a recommendation to Member States to reinforce controls in a coordinated way. Also, the precautionary approach should be taken: if workers’ protection can’t be a guarantee, transport operations need to be halted.

Transport workers are not supposed to police the enforcement of measures! Competent authorities and operators need to guarantee that tasks outside transport workers’ remit are not imposed on them. The same applies for spotting potential infections: this can trigger aggression from passengers to staff. We are getting reports of increased third-party violence against transport workers, and there is a need to act on preventing and deterring these episodes. Asking transport workers to control and sanction breaches to rules means exposing them to more violence.

We welcome that the need to restore passengers’ trust in the use of collective transport is mentioned. Likewise, it is crucial to restore the trust of public transport workers, who will return to work, by making sure that the workplace is made safe with the due protections, which, as stated above, need to be set with their full involvement.

There is no mention of the fact that staff that are part of risk groups shall be exempted from going back to work while at the same time enjoying full salary and protection against dismissals.



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It is positive that security and safety are mentioned in art. 39. However, we want to emphasise that security on all forms of public transport is a day to day issues, also outside of crises triggered by, i.e. pandemics or terrorist attacks. We believe that to guarantee safety, measures aimed at extending the validity of certificates without the required regular training and health checks have to be limited to what is strictly necessary.

The way the guidelines are developed does not take into account the fact that not all transport workers have a direct employment relationship with the transport company for which they work. Subcontracting is very frequent in the sector as is the use of precarious contracts. These situations generate fragmentation and make the application of prevention and safety measures more difficult. Effective tools to guarantee a safe restart shall start by taking into account the reality of the sector.

We also have sector-specific remarks, as outlined below.

Civil aviation

Compared to the other sectors, the aviation-specific chapter is less elaborate concerning issues such as social distancing, managing passenger flows, separating workers from passengers, leaving empty rows between passengers.

Apart from the lack of binding measures, there is a lack of clarity on who will implement these (“the aviation industry/sector should...”). Such expressions are too general even for guidelines and can lead to confusion, in a truly international sector.

We appreciate the reference to the work of EASA – the ETF is fully involved, and we regularly provide feedback to the agency.

We disagree with the notion that “it will be essential that aviation and health stakeholders communicate widely on the measures in place, as well as on how these measures mitigate the risks.” It is unclear to us why this should be a responsibility of the aviation sector. We see it as a task for health authorities that cooperate and coordinate with operators and workers’ unions.

As said above, equivalent measures are not sufficient. We need uniform measures to guarantee the safety of passengers and staff, restore trust, and guarantee a level playing field between different airlines.

Maritime

We welcome the reference to the EU healthy gateways guidelines for maritime transport workers contained in the **Guidelines on the progressive restoration of transport services and connectivity**. However, the intention of some of the recommended guidelines shouldn’t be too prescriptive, to take into account the real nature of the work involved and the comfort of the concerned workers.



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We appreciate the recognition of the Communication **Tourism and transport in 2020 and beyond**: “Coastal, maritime and inland waterway tourism, as well as rural tourism, is present in many EU regions and is creating innovative, localised tourism offers for off-season business and recreation opportunities”.

Regarding the **EU Guidance for the progressive resuming of tourism services and for health protocols in hospitality establishments**, we find that a significant part of the tourism sector is disregarded, notably river and sea cruises. Therefore, we would like to point out that:

- It will be extremely difficult if not impossible, to observe the physical distancing “guidelines” in the cruise sector (mainly river). A vessel is a very limited space where hundreds of passengers spend a long time together. The guidelines offer the options to set up rosters so that not everyone uses the common areas at the same time. The kitchen and restaurant are not equipped to serve meals in multiple shifts. This would mean the constant operating of the kitchen, where the staff is unable to physical distance itself – many colleagues working side by side. Even with a mask, this would be impossible: a confined space combined with heat and/or humidity.
- On page 8, point h, it is advised: “*not to have long time exposure as it is a high risk*”. Long time exposure is defined by 15 minutes. This needs to be clarified further, as it is difficult to imagine how crewmembers will manage to share the same cabin (2 up to 4 colleagues share an eight m² cabin) without long time exposure.
- On the point of “*Member States have to ensure sufficient health system capacity for tourists*” we are unsure about what that means for remote areas. Cruises sail to very remote areas at times (e.g. fjords). Does the sector have to limit its offer to certain destinations with demonstrated health capacity? (point 10ii)
- On the point of “*Monitoring, testing and tracing have to be put in place*” it is unclear how this will be controlled – both in terms of capacity/quantity and quality. If a person is tested today, that does not mean that they cannot be infected right after taking the test. Do passengers/clients have to provide a negative test result before being allowed onboard? Do crewmembers have to provide a negative test result?

Railways

We welcome the reference to the sense of responsibility of passengers; as stated above, it should not be the responsibility of the ordinary railway staff to control and sanction. The railway police are responsible for this.

We are favourable to the option to increase capacity and frequency to allow social distancing. Public financing must be ensured to support the need for increased services.



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If mandatory nominative seat reservation is put in place, it must absolutely be a temporary measure that is limited to the duration of the sanitary emergency. Rail transport is attractive to passengers because of its flexibility, and this feature should be maintained.

Regarding price incentives for off-peak travelling, this is mostly not compatible with lines servicing commuters. Furthermore, it is against the notion of public service to make tickets more expensive, taking into account that low-income commuters would be penalised as they cannot choose their travelling schedule. The majority of mobile railway staff already work in shift patterns: establishing even more flexible working time or extending working time would trigger serious threats to safety. Legislation and collective bargaining agreements which set working time rules already provide the needed flexibility to ensure an around-the-clock service, even in emergencies.

We welcome that accessibility to ticket sales shall be ensured for people who have no access to electronic means. The presence of staff in public transport is essential; it increases the quality of the service and should be encouraged in the framework of policies aimed at promoting sustainable mobility. The ongoing crisis shall not result in the de-humanisation of rail transport.

Road Transport

Rest areas and restrooms along motorways must be fully reopened. Professional drivers must be given access to regularly well-sanitised toilets, showers and washbasins, to selling points for takeaway food and drinks, and to running water at the outdoor water taps.

At the beginning of the crisis, drivers were denied access to facilities in terminals and hubs. Such shameful episodes shall be deterred and punished.

We also have specific comments on the bus and coach sector, which, in pre-COVID times, had suffered from a shortage of drivers and had problems with attracting young people to the profession. The leading causes are the quality of jobs and its impact on the drivers' quality of life. This crisis and the lack of a clear and uniform strategy across the EU on how to handle the return to business risk aggravating the situation.

As stated above, information and consultation rights will also be key to guarantee a safe restart for workers. Instead, we have evidence that operators are currently exerting pressure on trade unions and workers to accept a decrease in pay and terms and conditions in bus and coach. This will exacerbate the sector's acute shortage of drivers and impact tourism as well.

Once borders reopen for bus and coach tours, systems must be in place to ensure that tourists resorting to bus and coach services meet all pandemic-related requirements. The requirements imposed by member states that they will cross through during their journey must be complied with at the moment of booking, and not at the moment of boarding onto vehicles. To be clear: bus and coach drivers have no competence to control health documents, nor do they have the competence to take action against passengers' non-compliance with these requirements. There has to be strong action by member states and the EU in this respect.



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Supply of health and safety equipment for drivers, such as masks, gloves, and disinfectant gel must be part of enforcement and controls in road transport. The European Commission must formulate clear and strong recommendations in this respect, and member states must instruct their control authorities accordingly. Providing the necessary health and safety equipment is the operators' (employers) responsibility, and thus in case of lack of such equipment, employers and not drivers must be held responsible.

For long-distance coach drivers: operators will be equally held responsible for providing accommodation in line with all post-pandemic health and safety requirements of the Member States of over-night stops. Controls and sanctions should be envisaged for operators that fail to meet this basic obligation.

Urban Public Transport and Urban Mobility

Exit strategies should be aligned with plans to boost collective transport solutions in cities. Collective transport solutions in cities must be reliable, safe and affordable for users, and mindful of social and environmental sustainability. Other solutions such as car sharing, ride-hailing services, on-demand minibuses are only second-best solutions.

Even outside crisis times, the scarcity of toilet and sanitation facilities affects drivers in urban public transport. This problem is exacerbated by the ongoing crisis, and shall be addressed as a matter of urgency.

Shift work is common in public transport, to ensure services at night or on weekends and public holidays. We see no need to call for even more flexibility and/or extension of working time. Legislation and collective bargaining agreements which set working time rules already provide the needed flexibility to ensure round-the-clock service, even in emergencies.

We welcome the fact that accessibility to ticket sales shall be ensured for people who have no access to electronic means. The presence of staff in public transport is important, contributes to quality service and should be encouraged by a policy that aims to promote sustainable mobility. The ongoing crisis shall not result in the de-humanisation of urban public transport.

We are favourable to the incorporation of extra-costs in public service contracts. Still, states and municipalities have to provide the necessary funding without reducing services and without compromising the working conditions and pay of public transport workers.



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